

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

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| UNITED STATES SECURITIES AND EXCHANGE COMMISSION, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 18-cv-5587 |
| |) | |
| v. |) | Hon. Manish S. Shah |
| |) | |
| EQUITYBUILD, INC., EQUITYBUILD FINANCE, LLC, JEROME H. COHEN, and SHAUN D. COHEN, |) | Magistrate Judge Young B. Kim |
| |) | |
| Defendants. |) | |
| |) | |

RECEIVER'S STATUS REPORT ON CLAIMS GROUP 6 AND GROUP 7

Kevin B. Duff, as receiver (“Receiver”) for the Estate of Defendants EquityBuild, Inc., EquityBuild Finance, LLC, their affiliates, and the affiliate entities of Defendants Jerome Cohen and Shaun Cohen (collectively, the “Receivership Defendants”), and pursuant to the powers vested in him by Order of this Court, respectfully submits this report pursuant to the Court’s January 28, 2025 order (Dkt. 1833) on the current status of Claim Groups 6 and 7.

A. Claim Group 6

1. Properties 108-113 (the “UBS Properties”)

The Receiver and UBS reached a negotiated agreement as to the amount of a distribution to UBS in full settlement of its Group 6 claim and the Receiver’s avoidance claim against UBS. On February 11, 2025, the Receiver filed a Motion to Approve Distribution of Proceeds from the sale of these properties. (Dkt. 1839) If this motion is granted, the investor lenders, whom the Court found to have first-position liens on the properties (Dkt. 1818), would receive 100% of their maximum distributions, UBS would receive a total of \$1,600,000 (consisting of \$417,974.96

reserve balance held by UBS and \$1,182,025.04 from the property account), Rachlis Duff & Peel LLC would be paid \$11,777.52 for fees allocated to these six properties in the fourth quarter of 2024 and \$45,839.16 for fees allocated to the properties in the Receiver's fee applications 1-25 but previously held back pursuant to Court orders, and the net balance of approximately \$1.1 million would be transferred to the Receiver's account for use in the administration of the estate and for disbursement to unsecured and under-secured creditors pursuant to a final distribution plan. The Court has set February 18, 2025 as the deadline for objections to the Receiver's motion. (Dkt. 1841)

2. Properties 50, 51, and 53-57 (the "Midland Properties")

The Receiver has been in discussions with institutional lender Midland's counsel regarding the approximately \$140,000 cumulative balance that would remain in three of the property accounts (Properties 50, 53, 56), assuming and following a distribution of the maximum recommended amounts to the investor lenders pursuant to the Court's decision finding their liens to be in first position. (Dkt. 1818) To date, these discussions have focused on Midland's second-position claim to these funds and the settlement of the Receiver's avoidance claim against Midland. Proposals were exchanged in late 2024, along with an additional follow up discussion which occurred at the end of January 2025 after the last status conference. However, the Receiver's goal to reach agreement on both Midland's claim and the Receiver's avoidance claim has not yielded results. The Receiver believes it would be helpful to have an off-the-record settlement conference with the Court, Midland, the title insurer, counsel for those investor lenders who are represented, and any other investor lenders asserting an interest in one or more of these properties who wish to participate in negotiations. Midland has indicated its willingness to participate in such a conference. Counsel for a number of the represented investor lenders have also expressed an

interest in such a conference. The Receiver understands that Chicago Title would participate in a settlement conference, but has suggested a potential referral to Judge Kim for mediation.

3. Properties 8 and 68

These properties are resolved. Distribution of the proceeds from Group 6 properties 8 (1414-18 E 62nd Place) and 68 (6217-27 S Dorchester) has been made in accordance with the Court's order. (Dkt. 1788)

B. Claim Group 7

1. Property 7

This property is resolved. Distribution of the proceeds from Group 7 property 7 (7109-19 S Calumet) has been made in accordance with the Court's order. (Dkt. 1830)

2. Property 64

The Receiver has recently reached agreement in principle with institutional lender Citibank NA regarding its claim against 4611 S Drexel Ave (Property 64), and will be filing a motion to approve distributions pursuant to that agreement. If the settlement is approved, the investor lenders asserting claims against this property would be paid 100% of the maximum distributions recommended by the Receiver (Dkt. 1772 at Ex. 3), Citibank would receive \$3,550,000 from the property account (as well as \$1,782.23 held in escrow), Rachlis Duff & Peel LLC would be paid \$18,844.57 for fees allocated to this property in the fourth quarter of 2024 and \$23,659.46 for fees allocated to the properties in the Receiver's fee applications 1-25 but previously held back pursuant to Court orders, and the net balance of approximately \$1.5 million would be transferred to the Receiver's account for use in the administration of the estate and for disbursement to unsecured and under-secured creditors pursuant to a final distribution plan.

3. Property 2

The Receiver is in recently initiated discussions with institutional lender BMO Bank regarding the potential resolution of its claim to the proceeds from the sale of 4533 S Calumet. Such discussions are proceeding, and proposals have been exchanged, but the parties presently remain far apart. The Receiver believes it would be helpful to have an off-the-record settlement conference with the Court, BMO, the title insurer, counsel for those investor lenders who are represented, and any other investor lenders asserting an interest in this property who wish to participate in negotiations. BMO has indicated that it would like to participate in such a settlement conference. Counsel for certain of the investor lenders has also expressed an interest in such a conference.

4. Properties 69, 70, 73

The Receiver has been in discussions (a) with institutional lender Citibank NA with respect to the properties located at 6250 Mozart (Property 69) and 7255 S Euclid (Property 72), and (b) with institutional lender Sabal Capital with respect to the property located at 638 N. Avers (Property 70), regarding the potential resolution of their claims to the proceeds from the sale of those respective properties. These institutional lenders have common counsel, which is why they are grouped together in this status report. The Receiver has also engaged in discussions with three of the counsel representing individual investor lenders asserting an interest in one or more of these properties. These discussions are proceeding, and initial proposals have been exchanged, but the parties presently remain far apart. The Receiver believes it would be helpful to have an off-the-record settlement conference with the Court, the institutional lenders, the title insurers, counsel for those investor lenders who are represented, and any other investor lenders asserting an interest in these properties who wish to participate in negotiations. Counsel for certain of the investor lenders

has expressed an interest in participating in such a conference. Both Citibank and Sabal have indicated to the Receiver that they would participate in a settlement conference if there is a consensus among the group to do so. Chicago Title has indicated as follows:

If this matter is scheduled for an off the record settlement discussion before Judge Shah, Chicago Title Insurance Company will, of course, participate in good faith. However, Chicago Title notes that this matter seems to be more appropriate for settlement discussions involving a Magistrate Judge such as the Honorable Young Kim, who has previously presided over settlement discussions in this Receivership. This would avoid injecting Judge Shah in settlement discussions where he is also serving as the factfinder.

Dated: February 12, 2025

Respectfully submitted,

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis

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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2025, I electronically filed the foregoing **Receiver's Status Report On Claims Group 6 And Group 7** with the Clerk of the United States District Court for the Northern District of Illinois, using the CM/ECF system, which provided service to all counsel of record.

I further certify that I caused true and correct copy of the foregoing **Status Report** to be served by electronic mail upon all claimants who have asserted claims against the properties In Claims Group 6 and Group 7, and upon all individuals or entities that submitted a proof of claim in this action (sent to the e-mail address each claimant provided on the claim form or subsequently updated).

I further certify that the **Status Report** will be posted to the Receivership webpage at:
<http://rdaplaw.net/receivership-for-equitybuild>.

/s/ Michael Rachlis

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